

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROY HORTON,

Plaintiff,

v.

Civil Action No. 2:13cv65  
(Judge Bailey)

M. SCOTT VILLERS, Administrator,  
and ALEX SNYDER, Correctional Officer,  
Defendant.

ORDER DISMISSING CASE

On September 17, 2013, the *pro se* plaintiff, a prisoner presently incarcerated at Tygart Valley Regional Jail in Belington, West Virginia, filed this civil rights action pursuant to 42 U.S.C. §1983. On September 18, 2013, the Clerk of Court issued Notice of Deficient Pleading, advising the plaintiff to file his complaint on a court-approved form; pay the full filing fee of \$400.00 or submit an application to proceed *in forma pauperis*; with a signed Consent to Collect; and a copy of his Prisoner Trust Account Report with its attached Ledger Sheets within twenty-one days, or by October 9, 2013, or risk dismissal of his case. The Notice was sent by certified mail, return receipt requested. A review of the docket indicates that the deficiency notice was accepted at the Tygart Valley Regional Jail on September 19, 2013.

On October 21, 2013, Magistrate Judge Seibert reviewed the file and determined that the plaintiff had failed to comply with any provision of the Notice of Deficiency. Accordingly, an Order to Show Cause was entered, advising the plaintiff that he had fourteen days from entry of the Order, or until November 4, 2013, to show cause why his case should not be dismissed. In bold type, the Order forewarned the plaintiff that failure to comply would result in his case

being dismissed without prejudice. Said Order was also sent by certified mail, return receipt requested. Service was accepted at the Tygart Valley Regional Jail on October 23, 2013.

Upon review of the file on this date, the Court finds that the plaintiff has not complied with the October 21, 2013 Order, has not requested an extension of time to do so, or otherwise explained his reasons for noncompliance. Accordingly, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, it is **ORDERED** that this matter is hereby **DISMISSED WITHOUT PREJUDICE** for the failure to prosecute. It is further **ORDERED** that this civil action be **DISMISSED** and **STRICKEN** from the active docket of this Court.

Should the plaintiff choose to appeal the judgment of this Court to the United States Court of Appeals for the Fourth Circuit, he is ADVISED that he must file a notice of appeal with the Clerk of this Court within 30 days after the date of the entry of the judgment order.

**IT IS SO ORDERED.**

The Clerk is **DIRECTED** to transmit a copy of this order to the plaintiff by certified mail, return receipt requested, to his last known address as reflected on the docket sheet.

DATED: November 12, 2013.



JOHN PRESTON BAILEY  
CHIEF UNITED STATES DISTRICT JUDGE